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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,547	12/12/2003	Damon S. Arney	9148-3	4606
7590 03/08/2007 Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower 111 Monument Circle, Suite 3700 Indianapolis, IN 46204-5137			EXAMINER EPPS, TODD MICHAEL	
			ART UNIT 3632	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/735,547

Applicant(s)

ARNEY, DAMON S.

Examiner

Todd M. Epps

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the second Office Action **final** for serial number 10/735,547, Method And Apparatus For Displaying A Wine Cork, filed on December 12, 2003.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-11, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Design Patent No. 425,375 to Parham.

Parham '375 discloses a bottle holder comprising a base and a pair of sidewalls; wherein a base combines with a pair of sidewalls to form a trough; wherein a trough has a cross-sectional shape of a "U", wherein a display holder further includes at least one end wall, and wherein a trough slopes downward from a first end of a trough to a second end of a trough. However, Parham '375 reveals the previous invention failing to specifically teach wherein at least one of a pair of sidewalls has a length of between 0.25 inches and 4.0 inches, and wherein a pair of sidewalls is spaced between 0.5 inches and 1.5 inches apart.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have at least one of a pair of sidewalls with a length of

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between 0.25 inches and 4.0 inches, and wherein a pair of sidewalls is spaced between 0.5 inches and 1.5 inches apart wherein doing so would provide thereof a superior support of a wine bottle attached to the surface of a display holder.

Further, Parham '375 reveals the previous invention failing to specifically teach in a method of displaying a used wine cork. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use it as a method of displaying a used wine cork wherein doing so would provide thereof an additional support as to be perchance with enhancement of the appearance of the display holder.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Design Patent No. 439,671 to Casillo et al (Casillo).

Cassillo '671 discloses a bottle holder comprising a base and a pair of sidewalls; wherein a base combines with a pair of sidewalls to form a trough; wherein a trough has a cross-sectional shape of a "U", and wherein a trough slopes downward from a first end of a trough to a second end of a trough. However, Cassillo '671 reveals the previous invention failing to specifically teach in a method of displaying a used wine cork. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use it as a method of displaying a used wine cork wherein doing so would provide thereof an additional support as to be perchance with enhancement of the appearance of the display holder.

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Claims 1, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4,023,681 to Plant.

Plant '681 discloses a bottle holder comprising a base and a pair of sidewalls; wherein a base combines with a pair of sidewalls to form a trough; wherein a trough has a cross-sectional shape of a "V". However, Plant '681 reveals the previous invention failing to specifically teach in a method of displaying a used wine cork. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use it as a method of displaying a used wine cork wherein doing so would provide thereof an additional support as to be perchance with enhancement of the appearance of the display holder.

Response to Arguments

Applicant's arguments filed December 11, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Parham '375 reference with bottle holder would not provide superior support of a wine bottle. Further, the applicant argues that wine bottle typically have a diameters of between 3 and 4 inches and such bottles cannot be supported by a pair of sidewalls spaced 0.5 inches to 1.5 inches apart. The Examiner clearly disagrees. First of all, Parham '375 reference does not disclose a bottle holder designed for a "full size wine bottle" or a "small size wine bottle" or a "beer bottle". Furthermore, Parham '375 reference does not disclose the limitation structures with all the dimensions. As stated in the Office Action above, it

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would have been obvious to one of ordinary skill in the art at the time the invention was made to have at least one of a pair of sidewalls with a length of between 0.25 inches and 4.0 inches, and wherein a pair of sidewalls is spaced between 0.5 inches and 1.5 inches apart wherein doing so would provide thereof a superior support of a wine bottle (small one) attached to the surface of a display (bottle) holder.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use it as a method of displaying a used wine cork wherein doing so would provide thereof an additional support (on a small bottle) as to be perchance with enhancement of the appearance of the display (bottle) holder.

Next with regarding claims 1, 4, and 5, applicant argues that Casillo '671 reference with a baby bottle holder is not sized appropriately to display a used wine cork that typically have diameters of 2 and 3 inches. Again, the Examiner clearly disagrees. Casillo '671 disclose a baby bottle holder but not limitation structures with all the dimensions. Further, Casillo '671 does not disclose the size of a baby bottle holder that has a diameter of 0.5 to 1.5 inches. In general, a baby bottle holder comes in different sizes. So, applicant's argument is irrelevant since claims 1, 4, and 5 do not contain a structure limitation with dimensions.

With regarding claims 1, 4, and 6, applicant argues that Plant '681 reference with a wine bottle rack is not sized appropriately to display a used wine cork. Again, the Examiner respectfully disagrees. The rack by Plant '681 is able to hold a used wine cork. Nevertheless, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use it as a method of displaying a used wine cork

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wherein doing so would provide thereof an additional support as to be perchance with enhancement of the appearance of the display holder.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TME

Todd M. Epps
Patent Examiner
Art Unit 3632
March 2, 2007


A. JOSEPH WUJCIAK III
PRIMARY EXAMINER
TECHNOLOGY CENTER